S.B. Civil Writ Pet. NO.2723/95
Madan Lal & Ors. Vs. The Land Acquisition Officer & Ors.

Date of order : 03.05.2006

HON'BLE MR. GOVIND MATHUR, J.

Mr. Manish Shishodia for the petitioners.
Mr. T. Gupta for the respondents.

The petitioners preferred an application under Sec. 18 of the Land Acquisition Act, 1894 (hereinafter referred as 'the Act of 1894') for making a reference to the Court to decide the issue pertaining to determination of the persons to whom compensation is required to be paid as a consequence of acquisition of the land situated in Araji No. 189, 320, 321, 322 and 323 in village Kishanpura, measuring 17 bighas and 18 biswa. According to the petitioners, respondent Bhanwar Lal was not at all entitled for getting any compensation as he was having no interest in the land acquired.

The Land Acquisition Officer by the order impugned dated 15.3.1995 refused to make a reference on the count that issue with regard to entitlement of compensation could be decided by way of filing an appeal and not by making a reference under Sec.

18 of the Act of 1894. While giving challenge to the order dated 15.3.1995 it is contended by the learned counsel for the petitioner that under Sec. 18 of the Act of 1894, if any person interested who has not accepted award may submit an application in writing to the Collector with a request for making a reference to the Court for determination of objection with regard to the person to whom compensation is payable but the land Acquisition Officer ignoring the provisions above erroneously refused to make reference to the Court by the order impugned.

Heard learned counsel for the parties.

Sec. 18(1) of the Act of 1894 reads as under:

> "18. **Reference to Court –** (1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable, or the apportionment of the compensation among the persons interested."

From reading of the provisions of Sec. 18(1), it is clear that

a reference is required to be made if a person submits an application to the Collector to determine the person to whom payment of compensation is to be made.

In the instant matter, the petitioner raised objections with regard to entitlement of payment of compensation to Bhanwarlal who according to the petitioner was not keeping in interest with the land acquired, therefore, in view of the provisions of Sub-Sec. 1 of the Sec. 18 of the Act of 1894, the Collector was suppose to make a reference to the Court. The Collector apparently erred while refusing to make a reference.

The writ petition, therefore, succeeds and is allowed. The order impugned dated 15.3.1995 passed by the Land Acquisition Officer is quashed. A direction is given to the Land Acquisition Officer (Collector) concern under the Act of 1894 to make a reference to the Court as prayed by the petitioner by the application dated 16.5.1991. However, it is made clear that the amount of compensation which has already been paid to Shri Bhanwar Lal is not required to be recovered till disposal of the reference, subject to the condition that Shri Bhanwarlal submits an undertaking to the effect that he will return the compensation so received by him if he is not fount entitled for it.

No order to cost.

(GOVIND MATHUR), J.

ns.